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Order 99-12-18



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation
on the 21st day of December, 1999

Served: December 23, 1999

Agreement adopted by the Tariff :
Coordinating Conferences of the : Docket OST-99-6491
International Air Transport Association : R-1 through R-17
relating to passenger fares :

ORDER

Various members of the International Air Transport Association (IATA) have filed an agreement with the Department under section 41309 of Title 49 of the United States Code and Part 303 of the Department's regulations. The agreement was adopted at a TC3 Passenger Tariff Conference meeting held in Singapore during October 11-20, 1999.^{1/}

The agreement is comprised of resolutions affecting foreign air transportation between U.S. points in TC3 (Guam, Saipan and Pago) and points in South East Asia, South Asian Subcontinent, South West Pacific and Japan/Korea. It rolls back fares from Thailand by 5 percent to reflect levels approved by governments and now being applied in the marketplace; and sets the discount for children's fares from a number of points to Guam, Saipan and Pago at 75 percent of the applicable normal fare, while maintaining these discounts from certain other points at 67 percent to reflect the requirements of various carriers and/or their governments.

We will approve the agreement, subject, where applicable, to conditions we have previously imposed. Based on the information submitted and other relevant material, we conclude that the agreement will not result in fares that are unlawful or injurious to competition in the markets at issue.

Pursuant to authority assigned by the Department's Regulations, 14 CFR 385.13:

1. We do not find the following resolutions, which have direct application in foreign air transportation as defined by the Code,

^{1/} IATA memoranda PTC3 0363, 0367, 0370, 0392 and 0393 filed with the Department on November 11, 1999.

to be adverse to the public interest or in violation of the Code, provided that approval is subject, where applicable, to conditions previously imposed:

<u>Docket</u> <u>OST-99-6491</u>	<u>IATA</u> <u>No</u>	<u>Title</u>	<u>Application</u>
R-1	002w	TC3 Special Amending Resolution within South East Asia-US Territories	3
R-2	043b	TC3 Intermediate Class Fares within South East Asia-US Territories	3
R-3	053b	TC3 First Class Fares within South East Asia-US Territories	3
R-4	063b	TC3 Economy Class Fares within South East Asia-US Territories	3
R-5	085k	TC3 GIT Fares within South East Asia-US Territories	3
R-6	043e	TC3 Intermediate Class Fares between South East Asia and South Asian Subcontinent-US Territories	3
R-7	053e	TC3 First Class Fares between South East Asia and South Asian Subcontinent-US Territories	3
R-8	063e	TC3 Economy Class Fares between South East Asia and South Asian Subcontinent-US Territories	3
R-9	002aa	TC3 Special Amending Resolution between South East Asia and South West Pacific-US Territories	3
R-10	043h	TC3 Intermediate Class Fares between South East Asia and South West Pacific-US Territories	3
R-11	053h	TC3 First Class Fares between South East Asia and South West Pacific-US Territories	3
R-12	063h	TC3 Economy Class Fares between South East Asia and South West Pacific-US Territories	3
R-13	001b	TC3 Special Effectiveness Resolution (Tie-in) between Japan, Korea and South West Pacific-US Territories	3

R-14	043j	TC3 Intermediate Class Fares between Japan, Korea and South West Pacific-US Territories	3
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Docket	IATA	Title	Application
OST-99-6491	No		
R-15	053j	TC3 First Class Fares between Japan, Korea and South West Pacific-US Territories	3
R-16	063j	TC3 Economy Class Fares between Japan, Korea and South West Pacific-US Territories	3
R-17	001b	TC3 Special Effectiveness Resolution (Tie-in) within South East Asia-US Territories	3

2. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless approved on foreign policy grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, the conferral of antitrust immunity is mandatory under the Code.

Order 85-5-32 contemplates that the products of the fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under the Code. Consequently, we will grant antitrust immunity to the agreement in Docket OST-99-6491 as set forth in finding paragraph 1 above, subject, where applicable, to conditions previously imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreement contained in Docket OST-99-6491, as set forth in finding paragraph one above, subject, where applicable, to conditions previously imposed.

Persons entitled to petition the Department for review of this order, under 14 CFR 385.30, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the

Department of Transportation upon expiration of the above period, unless within such period a petition for review is filed or the Assistant Secretary for Policy and International Affairs gives notice that he will review this order on his own motion. Such actions are subject to judicial review under 49 USC 46110.

By:

Paul L. Gretch
Director, Office of International Aviation

(SEAL)

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